

SOLICITATION FOR OFFERS FOR THE DEVELOPMENT OF

“Benning Road & Minnesota Avenue NE Site “Phase 2”

Washington, District of Columbia 20019



Issued by
The Government of the District of Columbia
Office of the Deputy Mayor for Planning and Economic Development
John A. Wilson Building
1350 Pennsylvania Ave NW, Suite 317
Washington, D.C. 20004
<http://dcbiz.dc.gov/>

Responses due by: ~~May 6, 2008 4:00 PM~~ June 3, 2008 4:00PM EST



Government of the District of Columbia
Adrian M. Fenty, Mayor



Government of the District of Columbia

SOLICITATION ORGANIZATION

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1 Introduction

Great urban neighborhoods consist of diverse populations, extensive housing options, neighborhood amenities, pedestrian-oriented streetscapes, retail within short walking distances, distinctive public spaces and ubiquitous mass transit. To realize this vision of urban greatness, the Government of the District of Columbia (“District”) markets special projects that aim to achieve these goals and improve the quality of life for District of Columbia residents.

With this vision and these goals in mind, the District, through the Office of the Deputy Mayor for Planning and Economic Development (ODMPED), is pleased to issue this Solicitation for Offers (“Solicitation”) and invites development teams (“Offerors”) to respond. The District seeks a highly-qualified development team to plan, finance, build, and operate a mixed-use project on a (soon to be) vacant 211,151 square foot parcel located at the intersection of Minnesota Avenue and Benning Road NE., Washington, D.C. 20019 (the “Property”). The mix of uses may include mixed-income housing, community-serving retail, cultural amenities, civic space, government and private offices. Offerors are not limited by the uses described herein and are encouraged to design creative development programs that address the stated preferences of the District and the community stakeholders detailed in this Solicitation.

1.1 Purpose of Solicitation for Offers

The ODMPED is responsible for implementing economic development initiatives and policies on behalf of the Mayor of the District of Columbia (the “Mayor”). ODMPED offers one (1) exciting development opportunity in this Solicitation and intends to identify one (1) Offeror with whom to enter into negotiations for the disposition, through sale or ground lease, and development of the Property.

Highly-qualified development teams with experience in planning, financing, building, and operating medium to large scale mixed-use development projects and experience in working with multiple municipal entities and community stakeholders are strongly encouraged to respond to this Solicitation. Offerors will be expected to participate in a transparent and collaborative selection and development processes involving the District, the ODMPED, and community stakeholders. Offers submitted in response to this Solicitation must comply with the preferences and requirements set forth in Sections 3 and 4 and be responsive to this Solicitation, which incorporates the goals and objectives of the Great Streets Initiative, the Deanwood Strategic Development Plan and the Lincoln Heights New Communities Initiative. These plans include the following:



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A. **Great Streets Initiative**

The District of Columbia's "**Great Streets Initiative**" is a multi-year, multiple agency effort to transform eight under-invested corridors into thriving and inviting neighborhood centers by using public actions and tools to leverage private investment dollars. Both the ODMPED and the District Department of Transportation (DDOT) have partnered on this process to strategically use capital funds to leverage this change. Collectively, Benning Road and Minnesota Avenue will receive approximately \$40 Million in major infrastructure improvements and streetscape upgrades; including the installation of a Streetcar system down Benning Road over to Minnesota Avenue. In 2007, the District Department of Transportation completed Great Streets Framework Plans for both Minnesota Avenue and Benning Road. These plans outline DDOT's proposed enhancements and improvements to streetscape, mobility, access and traffic for both corridors.

Great Streets Initiative DDOT Framework Plans: Minnesota Avenue and Benning Road
http://ddot.dc.gov/ddot/cwp/view,a,1249,q,638970,ddotNav_GID,1754,ddotNav,|34241|.asp

B. **The New Communities Initiative**

In 2006, the Lincoln Heights and Richardson Dwellings public housing developments were designated "New Communities" under the Mayor's New Communities Initiative. This initiative is a comprehensive partnership designed to improve the quality of life for families and individuals living in District neighborhoods in need of investment and revitalization. The Initiative is a District-sponsored redevelopment of the physical and human architecture of neighborhoods troubled by concentrations of violent crime and poverty. The residents in these neighborhoods face many challenges, such as a lack of education, lack of access to quality job training, high unemployment, lack of viable housing options, lack of affordable homeownership opportunities, and a lack of businesses and institutions needed to sustain the community.

The New Communities Initiative will address these conditions by transforming highly concentrated low-income neighborhoods into healthy mixed-income neighborhoods that protect housing for low-income residents with a one-for-one replacement of existing affordable housing and introduce or rejuvenate existing community anchors such as schools, parks, and health and recreation centers. Equally important, the New Communities Initiative focuses on resident redevelopment through linkages to job training, asset building, counseling and other supportive human services. The District is calling for an investment of over \$500 million for the redevelopment of the Lincoln Heights and Richardson Dwellings New Community to create new housing, retail, offices and community amenities.

Lincoln Heights and Richardson Dwellings New Communities Initiative Revitalization Plan <http://planning.dc.gov/planning/cwp/view,a,1285,q,639012.asp>



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C. Deanwood Strategic Development Plan

In early 2006, the Office of Planning, in conjunction with the Office of the Deputy Mayor for Planning and Economic Development (ODMPED) and the District Department of Transportation (DDOT) was charged with creating a plan for Deanwood as part of the Great Streets Initiative. The Deanwood Planning area consists of Eastern Avenue to the Northeast, 55th Street NE to the East, Marvin Gaye Park to the South, and Kenilworth Avenue/CSX railway to the West. The primary purpose of the Deanwood Strategic Development Plan is to serve as a tool to document the community's vision for Deanwood and provide clear policy direction for land use and development within the neighborhood and its major corridors. It proposes future land use guidelines for development related to intensity and other development characteristics. The plan offers development concepts for selected focus areas that represent a range of development opportunities throughout the planning area, "Minnesota/Benning Phase 2" is one of those focus nodes. This plan combines community aspirations with professional research and analysis to set a framework for how Deanwood will improve over the next ten years and beyond.

The Deanwood Strategic Development Plan – Draft October 2007 – (“Deanwood Plan”)

<http://planning.dc.gov/planning/cwp/view,a,1285,q,641091.asp>

Additional information on these plans or the Minnesota/Benning Phase 2 (the “Project”) Solicitation can be obtained by visiting the above links or by contacting the following ODMPED representative via email only.

Ayris T. Scales
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
The John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 317
Washington, D.C. 20004
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1.2 Development Opportunity

Located in "Downtown Ward 7" the Property abuts two "Great Streets" corridors: Minnesota Avenue and Benning Road NE. It is 4.85 acres and spans one commercial block, just steps south of the Minnesota Avenue Metro Station. The Property (Phase 2) is the remainder of 9 acres acquired several years ago, by the District to spearhead economic development in Ward 7. The first Phase (1) which is NOT part of this solicitation, will consist of a new 227,000 sq ft headquarters for the Department of Employment Services (DOES) with 8,000 sq ft of ground floor retail and a 186,000 sq ft (468 spaces) above grade parking garage. (See Exhibit I.)

The Property is easily viewed from Benning Road NE and Minnesota Avenue NE traveling in all directions. Further discussion on access and visibility, including illustrations, is provided in Sections 1.3 and 1.4. The Property is bound by Benning Road NE to the south, Foote Place NE to the north, Kenilworth Avenue NE to the west, and Minnesota Avenue NE to the east. Historically, this site has been under-utilized by housing sub-tier commercial businesses and supporting WMATA's passenger parking. However, with more than (4) million square feet of development in the pipeline for the neighborhood, the Property is ideally located in a commercial district that's undergoing radical transformation from both private and public investment.

An aerial photograph of the development site is delineated below



This pipeline includes a new state-of-the-art 20,000 sq ft Benning Road Library; the Parkside mixed-used community development which will contain approximately 1500 units of housing, 500,000 sq ft of office and 30,000 sq ft of retail, a new pedestrian bridge to span

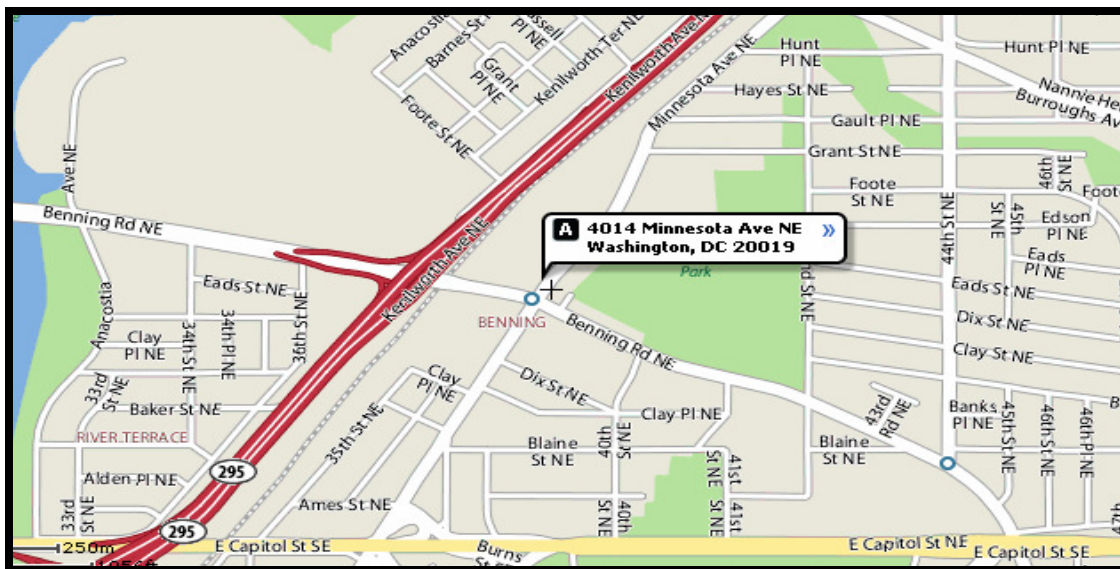


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from the metro across I-295 and the redevelopment of the East River Shopping Center into a new town center. Taking all of this into account, the ODMPED strives to distinguish this Project as a development that will build upon the pipeline and capture the quintessence of the neighborhood and commercial district, to serve the residents of Ward 7 and beyond. To this end, a mixed-use project with maximized development that involves mixed-income housing, community-serving retail, diverse office space, and destination venues .

1.3 Access and Visibility

The Property's location allows excellent access from various parts of the District of Columbia and the broader metropolitan area due to it's convenience to the blue/orange line on Metro and approximately 10 bus lines/routes that service the area. The two highly-trafficked arterials: Minnesota Avenue NE and Benning Road NE connect to several wards and neighborhoods in the District, virtually extending into Maryland. Additionally, the Property's proximity to highway I-295 provides easy access via automobile for those traveling from Southern Maryland or Northern Virginia. As part of the \$40 Million Great Streets Initiative for Minnesota/Benning, a Streetcar is planned to run down H Street onto Benning Road and up to the intersection of Minnesota Avenue. This will contribute towards the effortless commutes across the Anacostia River for residents, consumers and workers.



In February of 2007, as part of the Great Streets Initiative the District Department of Transportation (DDOT) examined the existing conditions of the Benning Road and Minnesota Avenue intersection and proposed recommendations to eradicate traffic constraints. One recommendation to note is that additional/new curb-cuts will not be permitted off Minnesota, into the site. It is recommended that the current access road (Foote Place NE) be closed and ingress/egress into the Property be provided thru the new



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driveway constructed during Phase 1. Another option to consider is adding an access road onto the rear of the site from the Benning Road via duct. Offerors should review DDOT's Great Streets Initiative DDOT Framework Plans: Minnesota Avenue and Benning Road http://ddot.dc.gov/ddot/cwp/view,a,1249,q,638970,ddotNav_GID,1754,ddotNav,|34241|.asp and examine the proposed concept on **Exhibit H**.

1.4 Site Views from Benning Road NE and Minnesota Ave NE



View South

The view south on Minnesota Avenue shows the major intersection leading into the retail district.



View West

The view west on Benning Road shows the viaduct heading in and out of "Downtown Ward 7."



View Rear of the Site

The view at the rear of the site shows the current parking lots used by WMATA patrons



View North

The view north across the intersection of Benning Road and Minnesota Avenue show the current commercial buildings in Phase 2 which are scheduled to be razed by District this



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1.5 Stakeholder Concerns and Requirements

The desires of the community stakeholders who live in the adjoining neighborhoods are of critical importance to the District. Collectively, the ODMPED, the Office of Planning and the District Department of Transportation have conducted extensive community outreach and planning sessions with key stakeholders: including the Ward 7 Councilmember, the Honorable Yvette Alexander, ANC 7D, the Deanwood Civic Association, WMATA, the adjacent land/business owners, and the residents of the neighborhoods in Northeast Ward 7. Their input has been incorporated in the Deanwood Strategic Plan and the Great Streets Minnesota Avenue Framework Plan, both of which respondents are highly encouraged to review. However, the lists of recommendations and objectives compiled below expresses the community's point of view on the development potential of the Property. It is not intended to limit the scope of uses for the proposed development plans. The ODMPED is open to all mixes of development programs and will consider all offers equitably.

Notwithstanding the ODMPED's open approach, Offerors are expected to the greatest extent possible to address stakeholder concerns and goals and to demonstrate creative ways to incorporate them into the Offerors development plans/response. If an Offeror believes strongly that its development plan should include elements that are not desired by the community, then such Offeror must convince the community that the proposed plan better serves the community's interests.

- **The development on this site should be mixed-use and contain businesses that serve the neighboring residents and workers**
- **Businesses on this site must be compatible with residential or office uses**
- **Consider incorporating on this site needed community services**
- **Restaurants locating on this site should provide a gathering spot for local residents and workers and should incorporate outdoor seating**
- **Include uses that uniquely capture and promote the culture of "Downtown Ward 7"**

Community Recommendations & Objectives	
<ul style="list-style-type: none"> ■ Green building design and construction ■ Retail: Bookstore, Florist, Bakery/Coffee Shop ■ Retail: Clothing & Accessories ■ Furniture & home furnishings ■ Health: Specialty/organic food ■ Dining & Entertainment venues ■ Home-ownership opportunities ■ Arts & Cultural Hub: Artist workspace, classes, galleries 	<ul style="list-style-type: none"> ■ Sit down restaurants & outdoor cafe ■ Personal services businesses ■ Outdoor & recreational merchandise retail ■ First –Class community center, civic space ■ Non-traditional office space such as business incubators, office condos ■ Quality childcare center for new workers and residents ■ Job intensive businesses ■ Wellness & Recreational Facilities



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2 Property Overview

2.1 Property Characteristics

The current characteristics of the Property and its development envelope are described below.

Legal Description:	See List Below
Common Street Address:	Intersection of 3900 Benning Road NE & 4000 Minnesota Avenue NE Washington , DC 20019
Condition:	Asphalt Parking and Strip of commercial buildings (To be Razed)
Topography:	Flat
Approximate Size:	211,151 sq ft
Zoning:	C-3-A
2006 Comprehensive Plan Land Use Map Designation	“Public Facility” for the west end of the site; Mixed Medium Density Commercial / Moderate Density Residential for the remainder of the site and for lands surrounding the site.
2006 Comprehensive Plan Generalized Policy Map	Regional Commercial / Mixed Use Areas located on major arterials and well served by transit. Typically includes regional shopping centers, restaurant, entertainment, office, and residential.
Permissible Uses Under Current Zoning:	Office, community facility, retail, residential, hotel, entertainment
Range of Allowable Height Under Current Zoning:	65 feet to 90 feet with a Planned Unit Development (PUD)
Range of Allowable FAR Under Current Zoning:	4.0 FAR (2.5 maximum FAR of non-residential); 4.5 FAR (3.0 maximum non-residential) with a PUD
Maximum Lot Occupancy:	75% for residential development; 100% for non-residential

For taxation purposes the Property is legally defined by the addresses and parcels listed below in section 2.1.1. As contiguous parcels, the site is rectangular shaped and sits adjacent to the future headquarters for the Department of Employment Services (DOES) and an employee/commuter parking garage. Respondents to this solicitation should review the site plan for the DOES building and garage **Exhibit G**. If an Offeror owns or otherwise controls any parcels within or adjacent to the Property, Offer may also include such parcels in its submission. Offerors must provide evidence of control over such parcels, by providing a copy of an executed unconditional valid contract or deed.



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2.1.1 Property List: “Minnesota/Benning Phase 2” Parcels

Parcel	Property Street Address	Square/Lot	Land Area Sq. Ft.
Parcel 1	4004 Minnesota Avenue NE	5052/0011	14,049
Parcel 2	4008 – 4010 Minnesota Avenue NE	PAR 0176060	3,250
Parcel 3	4012 Minnesota Avenue NE	5052/0006	2,665
Parcel 4	4014 Minnesota Avenue NE	5052/0007	2,795
Parcel 5	4016 – 4018 Minnesota Avenue NE	5052/0800	6,452
Parcel 6	4024 Minnesota Avenue NE	5052//0010	10,261
Parcel 7	4030 Minnesota Avenue NE	5052/0009	6,110
Parcel 8	4032 Minnesota Avenue NE	PAR 01760070	3900
Parcel 9	4036 Minnesota Ave NE (Current Access Road)	PAR 01760073	7,417
Parcel 10	4042 Minnesota Ave NE (North Sidewalk)	PAR 01760072	3,640
Parcel 11	4046 Minnesota Avenue NE	PAR 01760068	3900
Parcel 12	Minnesota Avenue NE	PAR 5052/0804	6,558
Parcel 13	Benning Road NE	PAR 01760078	13,954
Parcel 14	Minnesota Avenue NE	PAR 01760044	26,131
Parcel 15	Minnesota Avenue NE	PAR 01760083	13,503
Parcel 16	Benning Road NE	PAR 01760019	31,207
Parcel 17	Minnesota Avenue NE	PAR 01760023	23,841
Parcel 18	Minnesota Avenue NE	PAR 5052/0806	15,162
Parcel 19	Benning Road NE	Public Alley	16,356

Total: 211,151 Sq Ft

2.1.2 Outline of Phase 2 Lots and Parcels





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2.2 **Ownership and Property Conditions**

The Property is owned by the District with some parcels subject to certain WMATA restrictions set forth in Section 2.4. The Property may be conveyed either in fee or ground leased at fair market value to the selected Offeror for the purposes of developing the Property into a mixed-use project. Conveyance may be executed through a Land Disposition and Development Agreement (“LDDA”); similarly, a lease may be executed through a Ground Lease and Development Agreement (“GLDA”). If the development plan contains residential units, the LDDA and GLDA will require the Offeror to meet the ODMPED’s standard affordable housing covenants against the Property. The execution of either agreement will follow the selected Offeror’s achievement of several key pre-development milestones, such as, site plan approval, zoning approval, arrangement of financing and investment, and receipt of necessary construction permits.

The Property will be conveyed or leased in “as-is” condition, without warranties. The District makes no representations regarding the character or extent of soil or subsurface conditions or the conditions, existence and location of utilities that may serve the Property. The District makes no representations as to environmental condition of the Property and expects the Offeror to assume all costs associated with any necessary remedial actions. Each Offeror is encouraged to conduct its own research and to draw its own conclusions concerning the conditions that may affect the methods or cost of development. Offerors shall be responsible for all pre-development expenses incurred to assess the conditions of the Property.

Offerors who intend to close the public alley as part of their development plan, must adhere to the regulations set forth in Chapter 1400 of Title 24, District of Columbia Municipal Regulations (DCMR) regarding the process of closing streets and alleys. Public alley closings are the sole responsibility of the Offeror. The ODMPED will provide assistance where applicable. <http://dcra.dc.gov/dcra/lib/dcra/services/surveyor.pdf>

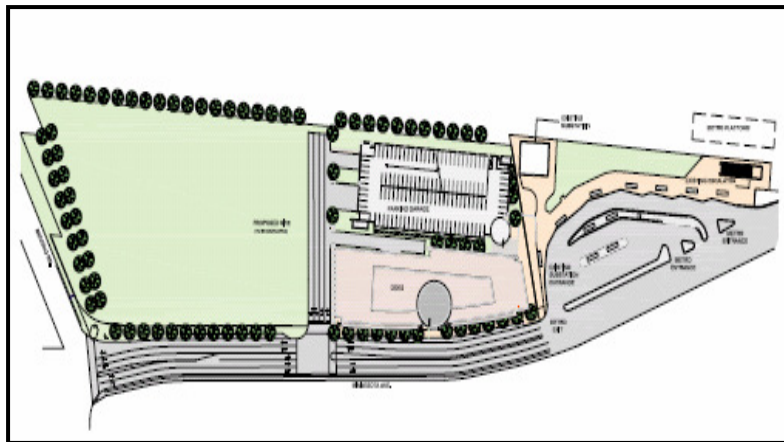


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2.3 Zoning

Preference will be given to Offerors who maximize the development envelope of the Property. The site is zoned C-3-A. This zoning permits, by-right, a mixed use or residential building with a maximum FAR of 4.0 (of which a maximum of 2.5 can be non-residential) and a maximum height of 65 feet. With a Planned Unit Development (PUD), the maximum FAR is 4.5 (of which 3.0 maximum can be non-residential) and a height of 90 feet. For residential development, the maximum lot occupancy is 75%.

Responses to this solicitation may be submitted under two different scenarios. A scenario plan that assumes the lots in Phase 1 (DOES headquarters) are combined with the lots in Phase 2 to create one (1) consolidated lot or a scenario that leaves the lots of



Phase 1 (DOES headquarters) and Phase 2 separate. The lot consolidation process will be the sole responsibility of the Offeror.

Offerors should review all applicable District of Columbia Zoning regulations while preparing their

offers. Please refer to Title 11 of the District of Columbia Municipal Regulations (“DCMR”) for a complete list of zoning provisions and requirements. Offerors may propose to develop the Property to conform to the existing zoning designation or to apply for a zoning variance, special exception or Planned Unit Development (PUD). An Offeror should detail its zoning strategy, including a detailed explanation and justification for any proposed variance from the residential requirements, and present an estimated schedule that fully describes each step in the approval process necessary for the entitlements assumed in the offer. Proposed zoning strategies should be consistent with the Comprehensive Plan and/or the relevant Small Area Plans.

Offerors should also be aware that the District is implementing an Inclusionary Zoning (IZ) process. Although not currently in place, it may be effective by the time of building permit application for development of this site.

Additional information regarding the Comprehensive Plan may be obtained from the District’s Office of Planning (<http://planning.dc.gov/planning>). Information regarding the zoning may be obtained from the Office of Zoning website (<http://dcoz.dc.gov>).



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2.4 WMATA Easements

The District acquired Parcels 9, 10, and 13 through 17 from Washington Metropolitan Transit Authority (WMATA) through a deed dated January 4, 2002 and filed among the land records of the District of Columbia (“Land Records”) as instrument number 2002002437 (“WMATA Deed”). In the WMATA Deed, WMATA reserved to itself a right of re-entry upon condition broken. The District and WMATA are currently negotiating the release of the right to re-entry under the WMATA Deed. As a condition of WMATA’s release of the right to re-entry, the District will be conveying certain perpetual exclusive and non-exclusive easements (“Easements”) upon, over, under and across the for the location, operation, maintenance, construction, reconstruction and modification of the existing Metro rail and Metro bus transit facilities. Specifically, in “Phase 2” Square 5052 Lot 0011 is subject to a permanent underground WMATA easement running with the blue line.

Offerors should review the Easement associated with the Property and WMATA’s Adjacent Construction Manual prior to submitting their response. The draft Easements locations are attached as **Exhibits A, B, C, D, and E**.

The Adjacent Construction Manual may be obtained at
http://www.wmata.com/bus2bus/jd/adj_construction_manual.pdf.



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3 Preferences

3.1 Development Plan Preferences

Preference will be given to Offerors who:

3.1.1 Design development programs that:

- (1) Comprehensively addresses stakeholder concerns and requirements listed in Section 1.5;
- (2) Stimulate pedestrian activity and include vibrant streetscapes;
- (3) Responds to ***both*** of the following development scenarios; Development Scenario # 1 with either Options A or B ***and*** a Development Scenario # 2 that addresses Option C:

Option A	Option B
All housing that contains ground floor retail.	A mix of housing and commercial uses that contain ground floor retail

Development Scenario #1: Master plan entire site

- a) Housing must include 30% of all units be affordable with ground floor retail
- b) A mix of housing and commercial use with ground floor retail. The Office use option can be structured in one of the following ways:
 1. Build-to-suit for DC Government office user
 2. Lease to Own for DC Government office user
 3. Other creative financing option for DC Government use and ownership
 4. Ground lease for market rate office project for private sector or non-profit user
 5. Build-to-suit for Federal Government office user (tenant must be identified for this option)



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Development Scenario #2: Master plan entire site

Option C
All housing and ground floor retail with a finished pad delivered back to the District for future use

- (4) Assume half of the site will be land developed and delivered back to the District as a pad site of approximately 100,000 square feet in land area.
 - (5) Must include **only** residential options with 30% affordable and ground floor retail.
 - (6) Plan must include accessibility from the residential development to the pad site for future use by the District
- 3.1.2 Provide 20% equity and development opportunities for Local, Small and Disadvantaged Business Enterprises (“LSDBE”) and contracting opportunities for Certified Business Enterprises (“CBE”) as required under D.C. Official Code §§ 2-2-218.01 *et seq.* All LSDBEs and CBEs referred to herein must be certified by the D.C. Department of Small and Local Business Development (“DSLBD”).
- 3.1.3 Any offer that fails to contain a binding Letter of Intent, Memorandum of Understanding, or other binding agreement with the 20% LSDBE equity and development partners will be deemed a non-responsive offer.
- 3.1.4 Maximize the overall economic benefit to the District, including:
- (1) Maximizing value to the District through land value proceeds (paid by Offeror to the District) and incremental property and sales taxes; and
 - (2) Maximizing community benefits: affordable housing, arts & cultural space, business incubators, neighborhood-serving amenities, and job creation and/or apprenticeship programs for Ward 7 residents.
- 3.1.5 Provide detailed plans on how Ward 7 residents will be trained and offered apprenticeships in connection to the Project
- 3.1.6 Provide Ward 7 businesses with opportunities to participate in all aspects of the Project



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- 3.1.7 Submit with offers development plans and conceptual design drawings that are sufficient in detail and may be easily evaluated by the Selection Panel.
- 3.1.8 Consider all applicable Federal and District laws when preparing development plans.
- 3.1.9 Consider the Easement and WMATA's Adjacent Construction Manual restrictions and requirements when preparing the development plans.
- 3.1.10 Conduct thorough due diligence, including design and engineering for the Project. Offerors will be held accountable consistent with the design, cost, and pricing provided in submission of proposals. Offeror shall be responsible for funding all pre-development costs for the project.
- 3.1.11 Offer housing options that include at least 30% affordable housing targeting the 0% to 30% AMI level and 30% to 60% AMI levels at 15% and 15% respectively. Indefinite affordability is preferred.
- 3.1.12 If residential is proposed in development plan, the creation of a mix of residential unit types and sizes in proposed plan(s), including one bedroom, two bedroom and three bedroom units; with special attention to the creation of family sized units.
- 3.1.13 Offerors are invited to submit more than one development plan and pricing proposal, which collectively shall be considered a single offer for evaluation purposes. In addition, Offerors are invited to include in their offers a proposal for sites adjacent to the subject property if controlled by the Offeror, as evidenced by a valid executed purchase contract or deed.

3.2 Local, Community and Business Preferences

Preference will be given to Offerors who:

- 3.2.1 Submit detailed apprenticeship programs that facilitate placing existing Ward 7 residents into employment opportunities within the Project. The commitment and strategy to develop and implement a local apprenticeship program shall be in accordance with D.C. Official Code §§ 32-1401 *et seq.* For more information on the District's Department of Employment Services (DOES) apprenticeship program, please visit the website below or contact DOES Office of Apprenticeship Information and Training.
<http://www.does.dc.gov/does/cwp/view,a,1232,q,618747.asp>
- 3.2.2 Submit a First Source Employment Agreement executed by the Offeror and DOES committing to use District residents as a first source for the construction (and, if applicable, the future retail tenant/owners to be included in the development), as



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required First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor's Order 83-265 (November 9, 1983).

- 3.2.3 Inclusion of Ward 7 neighborhood-based businesses. Evidence of the inclusion of such businesses shall be in the form of written confirmation from such neighborhood-based businesses which shall include the scope and details of the said businesses' involvement in the Project.
- 3.2.4 Include copies of each binding agreement between the lead developer and an LSDBE equity partner(s) and an LSDBE development partner(s).
- 3.2.5 Include a CBE/LSDBE architect(s) on the development team and include copies of binding LOIs between the lead developer and the LSDBE architect(s).

3.3 Pricing Proposal Preferences

Preference will be given to Offerors who:

- 3.3.1 Include pricing proposals that provide the greatest economic benefits to the District.
- 3.3.2 Provide documentation verifying financing and investment commitments.
- 3.3.3 Provide documentation verifying the timing of the availability of financing and investment.
- 3.3.4 Provide documentation describing the terms structuring the financing and investment agreements, including interest rates, terms, covenants, coverage ratios, and all other relevant information.
- 3.3.5 Seek the least amount of subsidy (either through a reduction in fair market value or through other District or federal public financing tools) to fill anticipated financing and/or investment gaps in the Project capital structure.
- 3.3.6 Provide funding plans, including sources and uses tables and multi-year pro-forma development budgets.
- 3.3.7 Demonstrate a significant amount of capital "at risk" during the pre-development and development process.
- 3.3.8 Maximize outside financing sources in their offer as shown in the development proforma and budget.



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- 3.3.9 Assume any District subsidy into the project will be on a pari-passu basis with other project equity and distributed over the term of the project with a minimum of a 20% of District funding to be distributed upon final completion and stabilization.
- 3.3.10 Provide for a third party construction monitor detailed in the project budget who will review all requests for District subsidy, monitor construction on a monthly basis, monitor compliance with all District Agreements including Affordability Covenant, LDDA, Completion Guarantee, Construction and Use Covenant will be reviewed and approved by a third party construction monitor consultant to be paid for by the development project.

4 Submission Requirements and Selection Process

4.1 Developer Submissions

- 4.1.1 An Offeror shall submit with its response to the Solicitation to the District a deposit in the amount of One Hundred Thousand dollars (\$100,000), in the form of a standby, irrevocable, letter of credit. The deposit shall secure an Offeror's bid in accordance with this Solicitation and will be held by the District until a selection of a successful offer is determined. If an Offeror's proposal is not selected, then the letter of credit shall be returned to such Offeror. If an Offeror's proposal is selected, then the letter of credit will be considered a non-refundable deposit. Upon execution of the LDDA or GLDA the District will require an additional deposit in the amount of ~~One Million dollars (\$1,000,000)~~ Two Hundred and Fifty Thousand dollars (\$250,000). In addition, the Offeror will be required to submit a second deposit at closing in an amount, at the sole discretion of the District, that ensures the selected Offeror has significant capital "at-risk", which will be held as security for satisfactory completion in accordance with all agreements and documents executed by the selected Offeror and the District.
- 4.1.2 A pre-proposal conference and site visit will be held in accordance with the schedule in Section 4.6. For those who intend to respond to this Solicitation, attendance at the pre-proposal conference and site visit is strongly encouraged. The purpose of the conference and site visit is to provide a forum for all interested parties to network and discuss the Project. If ODMPED determines, in its sole discretion, that any discussions or questions at the pre-proposal conference require additions and/or deletions to this Solicitation, or any other related document, the ODMPED, in its sole discretion, will make such additions and/or deletions in writing and post them on the ODMPED's website, www.dcbiz.dc.gov.
 - (1) At a minimum, all offers shall address all preferences stated in Section 3 and all requirements stated in this Section 4. Offers submitted without addressing



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all such items may, in ODMPED's sole discretion, be deemed incomplete and withdrawn from award consideration.

- (2) All offers
- shall be typed in 12-point font on 8½" x 11" standard letter-size paper
 - shall have material on one (1) side only
 - shall be bound on the long side
 - shall have tabs to separate sections
 - shall not exceed 25 pages, not including credit references, LOIs, MOUs, renderings, excel-based worksheets/models, tables, charts, etc.
- (3) Offer materials will not be returned.
- (4) Each Offeror must submit ten (10) printed, bounded copies to the ODMPED representative listed below by ~~4:00 PM ET on May 6, 2008~~: **June 3, 2008 4:00 PM EST**

Ayris T. Scales
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, D.C. 20004
ayris.scales@dc.gov

- 4.1.3 While the District, through the ODMPED, may enter into negotiations with an Offeror based its offer submitted in response to this Solicitation, this Solicitation does not commit the ODMPED or the District to select any Offerors or to enter into negotiations with any Offerors that may respond. The ODMPED, in its sole discretion, reserves the right to reject any offer it deems incomplete or unresponsive to the submission requirements, to amend this Solicitation, or to reject all offers and re-issue a Solicitation at a later date.
- 4.1.4 After review of one or more offers, the ODMPED, in its sole discretion, may request additional information from some or all Offerors.
- 4.1.5 Team members may participate in submissions from more than one Offeror. If an Offeror wishes to change the composition of the proposed development team at any time in the selection process after it has submitted its offer to the ODMPED, the Offeror must notify the ODMPED in writing. The ODMPED reserves the right to



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evaluate the proposed change to the development team and eliminate the Offeror from further consideration, in ODMPED's sole discretion. The ODMPED will require similar notification and approval rights of any change to the development team following the award, if any.

- 4.1.6 An Offeror may submit multiple development plans and pricing proposals, which collectively shall be considered a single offer for evaluation purposes.
- 4.1.7 In addition to signing an LDDA or GLDA, the selected Offeror will be required to execute some or all of the following documents prior to LDDA or GLDA signing and/or Closing, at the District's sole discretion. The additional documents are listed below:
- A. Property Description
 - B. Special Warranty Deed
 - C. Affordability Covenant
 - D. Construction and Use Covenant
 - E. Declaration of Covenants
 - F. Deposit Letter of Credit
 - G. Apprenticeship Agreement
 - H. Easement
 - I. Development and Completion Guaranty
 - J. CBE Agreement
 - K. First Source Agreement
 - L. Post-Closing Security Agreement

4.2 **Submission Requirements**

Offerors shall respond to each item included in this Section 4.2 in the order it is presented below and separate each item with tabs marked to indicate the section number. Offerors should include site plans, tables, charts, and any other applicable documents, to the extent possible.

4.2.1 **Executive Summary**

The Offeror shall provide a summary with a focus on the Offeror's vision for the project. While the Summary will not be a formal evaluation factor, it will be used as part of an integrated assessment of the Offeror's qualifications. In its executive summary, an Offeror shall address how the development will benefit the residents of Ward 7; shall articulate the Offeror's vision for the Project; shall discuss how well the Project fits into the neighborhood fabric; and shall illustrate the types of synergies it will create for the neighborhood.

4.2.2 **Team Members**

An Offeror shall identify the following key team members of the development team: master developer (firm or joint venture partners), Certified Business Enterprise



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(“CBE”) equity and development partners, master plan architect, financing team (proposed construction and permanent lenders, major investors, and other key consultants, if any related to the financing plan), and legal counsel. No other team members should be identified. An Offeror shall include:

- (1) Name, address, telephone number, and fax number for each team member;
- (2) Each principal, partner, or entity that composes each team member and such team member’s roles or titles within the entity comprising the Offeror;
- (3) Name, address, telephone number, fax number, and e-mail address of the representative authorized to act on behalf of the Offeror, who will be available to respond to questions or requests for additional information;
- (4) Any affiliation or relationship between any of the members of the Offeror and any development company, parent company, or subsidiary;
- (5) Any personal or professional relationship among or between any members of the Offeror and any person working for, appointed to a position in, or elected to an office of the District or any entity for which there may be a conflict of interest or the appearance of a conflict. The District, in its sole discretion, reserves the right to determine a conflict of interest or the appearance thereof;
- (6) A list of the professionals the Offeror will be employing or retaining for this project. For each professional firm, Offeror should include a description of the staff capabilities, the resumes of all professional staff who will be working on this project, a description of their role on this project, and their past relevant experience;
- (7) Satisfactory evidence with respect to the Offeror and its team members that all tax liabilities and other government impositions are current and that there is no ongoing litigation in which the District is a party that relates to any team member as the Offeror or to any other entity or individual having a controlling interest in the entity (or entities) that comprise the Offeror (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation); and
- (8) A summary of experience working with community groups, institutions, or the District during the planning and development processes; a summary of experience developing affordable housing, including descriptions of the projects, community organizations involved, and the consensus-building process utilized to incorporate the community’s input into the development plan.



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4.2.3 Qualifications and Experience

- (1) Offerors shall identify three (3) to five (5) relevant projects that demonstrate the Offeror's (including team members') primary involvement in and leadership of successful medium-to-large scale mix-use, mix-income developments in urban settings (preferably in the District of Columbia) involving public-private partnerships, and joint ventures/partnerships with LSDBE/CBE equity and development partners;
- (2) For each relevant project, Offeror shall identify the following:
 - a) Development team name
 - b) Project title
 - c) Location/address of the project
 - d) Contracting agency/company, if applicable
 - e) Description of the project, including development envelope and uses
 - f) Offeror's role and responsibilities for the project and structure of the development team, including joint venture description and/or documents, if applicable
 - g) Period of performance
 - h) Estimated total development cost at time of award or start of the Project,
 - i) actual total development cost, including all changes and exercised options
 - j) Originally projected completion date, current or actual completion date
 - k) The name and contact information for the owner, the principal, the partner, the general contractor and design architect's name and a description of each of the foregoing parties' role in the project
 - l) Name and telephone number of persons familiar with the project who may provide performance letters of recommendation and respond to inquiries from the District
 - m) Illustrative materials that will help the District to evaluate the caliber, innovation and relevant experience of the development team;
- (3) Projects, with which Offeror or its team members have had primary involvement, that involve CBE/Local Small Disadvantaged Business Enterprise ("LSDBE") joint ventures, partnerships, and/or CBE/LSDBE equity participation, including details of the levels of participation and deal structure.
- (4) In a table format, offers shall include projects underway, including financing and investment partners, status (% completed to date), completion guarantees



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provided, size, scope, total development costs, capital structure sources and uses schedule, and other meaningful project-related information;

- (5) Each offer shall include an organization chart and a summary of qualifications of the team's senior-level staff who will be directing this project, including a description of their roles and relevant experience;
- (6) Each offer shall include the status of the Offeror organization (whether a corporation, a non-profit or charitable institution, a partnership, a limited liability corporation, a business association, or a joint venture) indicating under which laws it is organized and operating, and a brief history of the organization and its principals. For any entity required to file reports in the jurisdiction of its formation, include a certificate of good standing for such jurisdiction and a certificate of good standing showing that it is registered in the District of Columbia;
- (7) Each offer shall include a copy of any written agreement or document creating, or other organizational document(s) for, any entity responding to this Solicitation. The principals, partners, or joint-venture partners who are part of the Offeror team must be eligible to transact business with the District and in the District of Columbia;
- (8) Each offer shall include a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts of Offeror or any member of the development team;
- (9) Each offer shall include references for the Offeror and its team members, including names, addresses, and telephone numbers. References should be prepared to respond to inquiries regarding the design, financing, and development of prior projects;
- (10) Offerors may include other relevant information that they believe will assist the ODMPED in evaluating the capabilities of the Offeror, the design architect, and any other team member who will be participating in the development. The ODMPED may request additional information from the authorized representative, if deemed necessary, in ODMPED's sole discretion, to facilitate the evaluation of an Offeror's submissions.

4.2.4 Project Implementation Strategy

- (1) Offerors shall identify and describe any possible difficulties implementing the Project and shall identify and describe possible solutions and approaches that would allow for successful implementation;



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- (2) Offerors shall describe the compatibility of their development plans with the Deanwood/Great Streets – Strategic Development Plan, the objectives of the Lincoln Heights New Communities Initiative, the Minnesota Avenue Framework Plan: [Proposed Traffic & Roadway Improvements](#), District zoning parameters and the Comprehensive Plans;
- (3) Offerors shall describe any proposed zoning changes and the time required to achieve zoning change approvals;
- (4) Each Offeror shall illustrate a detailed implementation schedule (including phasing) from award to ground breaking to occupancy to stabilization. Furthermore, schedules shall include more detailed timetables and milestones for the first 24 months of the Project following award, focusing on timing for development programming, community engagement, adjacent parcel assemblage and other relevant pre-development activities;
- (5) Offerors shall describe their understanding of the market in Downtown Ward 7 area and the communities this NE part of the ward.
- (6) Offerors shall acknowledge that they will be required and must demonstrate their willingness to provide financial guarantees that insure the implementation of their development plans;
- (7) Offerors shall demonstrate their willingness to invest at-risk capital in the Project, including pre-development expenditures; describing Offeror's phasing plan for the redevelopment; describing Offeror's timetable and milestones for the next 24 months, including ability to mobilize and commence development programming immediately upon selection; describing Offeror's time and financial commitment to guarantee to the District that Offeror's milestones will be met;
- (8) Offerors shall describe their approaches and strategies to engage the community to ensure meaningful involvement in the development process, to reach ultimate consensus around development plans, and to mitigate the Project having any negative impacts of the surrounding community; and
- (9) Offerors shall describe their approaches and strategies to operate the Project following occupancy.
- (10) Offerors shall describe its consideration of the restrictions imposed by the Easement and the restrictions under the Adjacent Construction Manual.



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4.2.5 Financial Capacity and Framework

- (1) Each Offeror shall include a letter of credit in the amount of One Hundred Thousand dollars (\$100,000) in the form attached as **Exhibit F**. This amount will be held by ODMPED and returned if Offeror is not selected.
- (2) Offerors will be required to submit ~~\$1 Million~~ Two Hundred and Fifty Thousand dollars (\$250,000) as a security deposit at LDDA or GLDA signing. In addition, Offerors will be required to submit a second deposit at closing in an amount that ensures the selected Offeror has significant capital “at-risk”, which will be held as security for satisfactory completion in accordance with all agreements and documents executed by the selected Offeror and the District.
- (3) Each Offeror shall include a description of the financial capacity of Offeror and its team members, including, but not limited to, audited financial statements (balance sheets, profit and loss statements, statements of cash flows);
- (4) Each Offeror shall include descriptions of the nature and share of each team member's financial investment in the acquisition and development of the Property;
- (5) Each Offeror shall include proposed financial structures between the Offeror and the District. The Offeror should assume the following:
 - The parcel owned by the District will be conveyed to the Offeror at a price negotiated with the District. In general, the parcel purchase price should be assumed to be equal to the fair market value of the parcel, subject to adjustment as determined in ODMPED’s sole discretion.
 - In determining economic feasibility, Offerors shall take into account all available subsidies from sources other than the District government and are responsible for obtaining those subsidies to the greatest extent possible.
 - The conveyance will be in the form of a deed or a ground lease.
 - If the conveyance is pursuant to a ground lease, the cost of the ground lease will be negotiated using the same approach as the sales price negotiation described above.
 - The purchase price will be due and paid in full at settlement, although ODMPED, in its sole discretion, will consider alternate payment structures proposed by an Offeror.



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- If residential units are included in the proposed development, Offeror will be expected to record Affordable Housing Covenants among the Land Records in the ODMPED's standard form against the Property immediately after the recordation of the deed or ground lease among the Land Records.
 - Offeror will be expected to enter into ODMPED's standard construction and use covenants requiring certain construction deadlines and providing ODMPED's oversight over the project through the completion of construction. The construction and use covenants will be filed among the Land Records immediately after the deed or ground lease are filed among the Land Records.
 - Offeror shall assume that it will be responsible for all costs of associated with any necessary environmental remediation on the Property.
- (6) Each Offeror shall include a description of:
- Desired financial returns, including the internal rate of return for each proposed land use.
 - Proposed investment of Offeror equity into the Project.
 - If an alternate purchase price payment structure is proposed, then the methodology for such proposed structure including, if it involves future payments, the security to be provided to the District for such future payments.
 - If ground lease is proposed, the methodology for determining the rental payment due under the ground lease;
- (7) Each Offeror shall include a proposed financing strategy for the entire Project from award to groundbreaking to occupancy to stabilization. Such strategy shall include sources and uses of funds and types of financing and investment and shall include sufficient detail to facilitate the Selection Panel's evaluation of the proposed financing strategy. Financing strategies shall include:
- An estimate of proposed pre-development costs and statement of capacity to carry those costs, how those costs will be paid for, and how such costs will be factored into the financing of the Project.
 - Statement of the proposed financial structure, including penalties for lack of performance.
 - Satisfactory evidence of the Offeror's ability to secure financing for the Project.
 - A cash flow schedule that supports the entire development timeline;
- (8) Each Offeror shall include an excel-based, fully-manipulable/functional pro-forma model with detailed underlying assumptions (submitted on CD-ROM)



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that estimates investment returns including, net present value, internal rate of return, return on equity and return on cost;

- (9) Each Offeror shall include a detailed development budget (submitted on CD in Excel) for the proposed development plans that includes a summary of the dollar per square foot breakdown of each line item;
- (10) Each Offeror shall include financing and investment references. References must be prepared to discuss the nature and performance of the prior financing and investment relationships; and
- (11) Offers shall not include funds from the District operating or capital budget (unless appropriated for such purpose on a multi-year basis) or unidentified Federal funding in the Offeror's funding plan.

4.2.6 **LSDBE and CBE Participation**

- (1) Offerors shall include descriptions of LSDBE equity and development participation in the Project and shall demonstrate Offeror's firm commitment to meet or exceed a 20% LSDBE equity and a 20% development participation requirement. The Offeror must submit with its offer an LOI, Memorandum of Understanding (MOU) or other binding agreement with the 20% LSDBE/CBE equity and development partner(s) that at a minimum:
 - Identifies the LSDBE equity and development partner(s)
 - States the percentage of equity and development participation of each LSDBE partner
 - Describes the role and scope of work of each LSDBE partner
 - Includes anti-dilution language regarding equity and development participation for the benefit of the LSDBE partner(s) and to be applied at all stages of the Project

Any offer that fails to contain a binding Letter of Intent, Memorandum of Understanding, or other binding agreement with the 20% LSDBE equity and development partners will be deemed a non-responsive offer.



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- (2) The District will view highly favorably, responses that exceed the 20 % LSDBE equity and development partner participation requirement.
- (3) Each Offeror shall include descriptions of CBE contracting participation in the Project and shall demonstrate Offeror's commitment to meet or exceed a 40% CBE contracting and procurement requirement.

Prior to and as a condition of executing an LDDA or GLDA, the selected Offeror will be required to sign a Certified Business Enterprise Utilization and Participation Agreement with the DSLBD that outlines the specific contracting requirements and the specific efforts the selected Offeror must take to fulfill these requirements.

4.2.7 First Source Hiring

- (1) Each Offeror shall include First Source Agreement executed by the Offeror and the DOES.
- (2) Each Offeror shall include a description of what specific efforts will be made to recruit Ward 7 and District of Columbia residents at large for newly created jobs.
- (3) Provide reasonable projections of the permanent and temporary jobs that will be created for District residents (especially residents from Lincoln Heights, Richardson Dwelling and Deanwood) during the redevelopment and reuse of the Properties and what specific efforts will be made to recruit District residents for these newly created jobs. The selected Offeror will be required to sign a First Source Hiring Agreement with the D.C. Department of Employment Services. Selected Offeror must enter into a First Source Agreement with the District that contains a commitment that at least 51 percent of new jobs created as a result of the development will be filled by District residents.
- (4) Offerors may be required to develop and implement a local apprenticeship program under D.C. Code §§ 32-1401 *et seq.* 2006.
- (5) Offeror shall describe successful efforts on previous projects to promote local hiring.

4.2.8 Affordable Housing (if residential options are proposed)



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- (1) Each Offeror shall describe its development plan's impact on the District's affordable housing goals and other economic development objectives;
- (2) Each Offeror is required to describe the administration of any affordable residential units the Offeror (or a member(s) of the development team) currently operates or, if it has no such current operations, the Offeror may describe its proposed operation and administration of affordable residential units in this Project. An Offeror with current affordable housing operations may also include its proposed operation and administration of affordable residential units in this Project. All proposed affordable units shall be provided in accordance with an Affordability Covenant provided by the ODMPED.
- (3) Offerors shall describe integrated approaches to its placement of affordable units within their proposed plans. More specifically, affordable units must be dispersed, not clustered, throughout the residential component(s) of the Project and mixed with market rate units.

4.2.9 Green Building Design

"District of Columbia Green Building Act of 2006 [D.C. Official §§ 6-1451.01 *et seq.* (2007)]. – The proposed project shall meet all requirements of the aforementioned Act for District owned and/or disposed properties as well as any LEED certification requirements for the construction, rehabilitation and/or renovation of D.C. public assets.

- (1) Each Offeror shall describe its approach to meet the Green Building Design requirements and how these requirements will be incorporated into the project.

4.3 Selection Process and Selection Panel

- 4.3.1 The Selection Panel will evaluate responses to this Solicitation for completeness, feasibility, creativity, and measure of economic value created.
- 4.3.2 The ODMPED will determine, in its sole discretion, whether each offer received in response to this Solicitation is complete according to the guidelines set forth herein. For any offer that is considered to be incomplete, the Offeror will be notified in writing within ten (10) business days after the submission deadline. The decision of the ODMPED in this regard is final and will be explained to the Offeror upon request.
- 4.3.3 A Selection Panel will be established to review and evaluate the Offers submitted in response to this Solicitation and to select, in its sole discretion, one (1) or more of



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the Offers, or if it determines in its sole discretion none of the Offers. The Selection Panel may consult with the ODMPED consultants for technical assistance.

- 4.3.4 Offerors shall present their offers to the Selection Panel and the community. The community may provide feedback to the Selection Panel for its consideration. The Selection Panel will evaluate each offer based on the criteria set forth in this Solicitation. The Selection Panel may request that one (1) or more Offerors modify their offers, provide additional information or provide a “best and final offer” for the Selection Panel’s review. Following such request, if any, the Selection Panel will select, in its sole and absolute discretion, one (1) or more offers (or if it determines in its sole discretion none of the Offers), as modified or otherwise, to recommend to the Mayor, who, in his absolute discretion, may accept the Selection Panel’s recommendations.
- 4.3.5 Upon recommendation by the Selection Panel, and if accepted by the Mayor, the ODMPED shall notify, in writing, the first selected Offeror of its selection.
- 4.3.6 The District will evaluate responses to this Solicitation on team capacity and experience, completeness, project feasibility, innovation, and the strength of the financial proposal.

4.4 **Project Review**

Required design review meetings will be scheduled after selection between the ODMPED, the Office of Planning and the selected Offeror and its consultants. In addition, the selected Offeror must arrange and participate in at least one (1) community forum held in the vicinity of the project site prior to Offeror’s preparations of final building permit drawings. During the duration of the development process, the selected Offeror also will be expected to participate in periodic meetings with the community to provide updates on the progress of the development and to respond to questions from the community.

4.5 **Conflict of Interest**

In its response to this Solicitation, an Offeror must represent and warrant the following to the District:

- 4.5.1 The offer has been developed and provided independently and without consultation, communication or other interaction with any other competitor for the purpose of restricting competition related to this Solicitation or otherwise.
- 4.5.2 No person or entity employed by the District or otherwise involved in preparing this Solicitation on behalf of the District (i) has provided any information to Offeror which was not also available to all Offerors responding to this Solicitation, (ii) is affiliated with or employed by Offeror or has any financial interest in Offeror, (iii)



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has provided any assistance to Offeror in responding to this Solicitation, or (iv) will benefit financially if Offeror is selected in response to this Solicitation.

- 4.5.3 The Offeror has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under this Solicitation or any other solicitation or other contract.
- 4.5.4 Offeror has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees.
- 4.5.5 Offeror has not and shall not offer, give or agree to give anything of value to any District employees, agents, job shoppers, consultants, managers or other person or firm representing the District, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this Solicitation and shall automatically disqualify such Offeror's offer from consideration under this Solicitation. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to Offeror, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment, or business opportunity; provided that such term shall not include work or services rendered pursuant to any other valid District contract.
- 4.5.6 The Offeror shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offeror employee, officer, agent, subcontractor, or labor official, or other person for any purpose which may be related to the procurement of this Solicitation by Offeror, or which may affect performance in response to this Solicitation in any way.
- 4.5.7 Neither Offeror or any subcontractor or affiliate thereof, nor any employee of any of them, shall retain any material or items of any kind salvaged from the Property as memorabilia, souvenirs or otherwise.



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4.6 Selection Process Timetable

The selection process will follow the schedule outlined below. All offers must be submitted to the ODMPED by **May 6, 2008 at 4:00 PM. June 3, 2008 at 4:00 PM.**

SELECTION PROCESS TIMETABLE (SUBJECT TO CHANGE)	
Issuance of Solicitation	March 26, 2008
Pre-Offer Conference and Site Visit	April 17, 2008
Proposal Due Date (at 4:00 PM ET)	May 6, 2008 June 3, 2008
ODMPED Determination of Responsive Offers	May 15, 2008 June 17, 2008
Offeror Interviews (if requested)	May 26 – 30, 2008 Week of June 23, 2008
Community Meeting/Presentation	June 16 – 20, 2008 Week of July 21, 2008
Best and Final Offers (if needed)	Within 14 days of community meeting
Selection of Offeror	July 2008 August 2008

4.7 Pre-Offer Conference, Questions and Further Information

Any questions regarding this Solicitation should be submitted via e-mail only to ayris.scales@dc.gov. Questions, the responses and other clarifications, will be posted on the ODMPED's website www.dcbiz.dc.gov within 5 business days following the pre-offer conference. **The Pre-offer conference will be held:**

**Tuesday, April 15, 2008
10:00 AM – 12:00 PM
Washington DC, Economic Partnership
1495 F Street, NW
Washington, DC 20004**

4.8 Award

- 4.8.1 Following receipt of written notification from the ODMPED of the selection ("Selection Notification"), the selected Offeror shall execute a right of entry agreement with the District to allow the selected Offeror to begin its due diligence and site studies.
- 4.8.2 The District, through ODMPED, and the selected Offeror shall negotiate an LDDA or GLDA, which shall incorporate the requirements contained in this Solicitation and other such terms as agreed to by ODMPED and the selected Offeror. Upon completion of the parties' negotiation, ODMPED will recommend such Offeror,



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based on the terms agreed to in the proposed LDDA or GLDA, to the Mayor. If the Mayor agrees with ODMPED's recommendation, then the Mayor, in his sole and absolute discretion, may submit the proposed LDDA or GLDA, or the terms thereof, to the Council of the District of Columbia ("Council") as the method of conveying or leasing the Property to the Offeror. IN ACCORDANCE WITH D.C. OFFICIAL CODE § 10-801 (2006 SUPP.), THE DISTRICT IS NOT AUTHORIZED TO CONVEY OR LEASE THE PROPERTY UNLESS AND UNTIL FIRST AUTHORIZED BY THE COUNCIL.

- 4.8.3 **If the District and the selected Offeror(s) are unable to agree on the final terms of a LDDA or GLDA within 75 days after the date of the Selection Notification, ODMPED, in its sole and absolute discretion, may terminate negotiations and select a different Offeror from among the responsive Offerors who submitted offers, re-issue this Solicitation or take such other measures as it deems reasonable, appropriate or necessary.**
- 4.8.4 Once approved by Council, the District and the selected **Offeror shall execute the proposed LDDA or GLDA, whereupon Offeror shall submit to the District a deposit in an amount ~~not to exceed One Million Dollars (\$1,000,000)~~, of Two Hundred and Fifty Thousand dollars (\$250,000) in the form of a standby irrevocable letter of credit** to be held by ODMPED. The deposit shall secure Offeror's performance in accordance with the LDDA or GLDA and will be held by the District through the Offeror's successful completion of construction of the Project. The District will request **Offeror to submit a second** deposit in the form of a letter of credit to the **District in an amount no less than Five Hundred Thousand Dollars (\$500,000) but not to exceed One Million Dollars (\$1,000,000) at the District's discretion** or otherwise increase the deposit at the time of settlement or execution of ground lease of the Property; to further insure Offeror's successful completion of construction of the Project. An executed payment and performance guaranty, which will guaranty completion of the Project from the members or owners of the Offeror, or other individuals or entities satisfactory to the ODMPED, in its sole discretion, also will be required at settlement.
- 4.8.5 In the event the Property is conveyed, settlement on the District's sale to Offeror shall be held no later than 12 months after the date of execution of the LDDA, provided, however, that settlement shall not be held until Offeror has received design review approval from the District and has obtained all permits required under Section 105A of Title 12A of the DCMR to commence construction (and such other conditions as may be agreed between the parties). In no event will settlement, or any conveyance, occur after the expiration of Council authorization to dispose of the Property by Resolution pursuant to §10-801 of the DC Official Code.



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- 4.8.6 Timing of any District subsidy will be distributed on a pari-passu basis with the construction loan. 20% of the total subsidy amount will be held through the duration of the project and released upon successful completion and stabilization of the project.

5 Reservation of Rights and Miscellaneous Provisions

5.1 District Reservations

The District reserves the right to:

- Cancel or withdraw the Solicitation prior to or after the submission deadline
- Modify or issue clarifications to the Solicitation prior to the submission deadline
- Reject any submission it deems incomplete or unresponsive to the submission requirements
- Consider a submission that is in noncompliance with the submission requirements
- Reject all submissions that are submitted under the Solicitation
- Modify the deadline for submissions or other actions

The District may exercise one or more of these rights, in its sole and absolute discretion.

5.2 Notice of Modifications

The District will post on its website (<http://dcbiz.dc.gov>) notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this Solicitation. Offerors are responsible for checking the website for any such notices and information, and the District shall have no duty to provide direct notice to Offerors.

5.3 Changes in Offeror Information

If information provided in a submission changes (e.g., change or addition to any of the Offeror's team members or new financial information), then the Offeror shall provide updated information in the same format for the appropriate section of the Solicitation and the District will consider the modified submission. Offerors may not change the composition of their teams at any time without prior District approval, in its sole discretion. However, the District shall allow short-listed Offerors to (i) add additional LSDBE parties to their teams or (ii) increase the level of LSDBE equity and/or development participation on their teams.

5.4 Ownership and Use of Offers

All offers shall be the property of the District. The District may use any and all ideas in any offer, whether the offer is selected or rejected.

5.5 Restricted Communications



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Upon release of this Solicitation and until selection of an Offeror, Offerors shall not communicate with ODMPED staff about the Solicitation or issues related to the Solicitation except as authorized in this Solicitation.

5.6 **Non-Binding**

The selection by the District of a Offeror indicates only an intent by the District to negotiate with the Offeror and the selection does not (i) constitute a commitment by the District to execute any agreement with the Offeror and (ii) confer onto Offeror any property right, interest or expectancy.

5.7 **Confidentiality**

Offers and all other information submitted in response to this Solicitation are subject to the District's Freedom of Information Act ("FOIA") under D.C. Official Code § 2-531 et seq., which generally mandates the disclosure of documents in the possession of the District upon the request of any person, unless the content of the document falls within a specific exemption category. An example of an exemption category is "trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained."

If an Offeror provides information that it believes is exempt from mandatory disclosure under FOIA ("exempt information"), the Offeror shall include the following legend on the title page of the submission:

THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

In addition, on each page that contains information that the Offeror believes is exempt from mandatory disclosure under FOIA, the Offeror shall include the following separate legend:

THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

On each such page, the Offeror shall also specify the exempt information and shall state the exemption category within which it believes the information falls.

ALTHOUGH THE ODMPED GENERALLY WILL ENDEAVOR NOT TO DISCLOSE INFORMATION DESIGNATED BY THE OFFEROR AS EXEMPT



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INFORMATION, THE ODMPED WILL INDEPENDENTLY DETERMINE WHETHER THE INFORMATION DESIGNATED BY THE OFFEROR INDEED IS EXEMPT FROM MANDATORY DISCLOSURE. MOREOVER, EXEMPT INFORMATION MAY BE DISCLOSED BY ODMPED, AT ITS DISCRETION, UNLESS OTHERWISE PROHIBITED BY LAW, AND THE DISTRICT SHALL HAVE NO LIABILITY RELATED TO SUCH DISCLOSURE.

5.8 **Non-Liability**

By participating in the Solicitation process, the Offeror agrees to hold the District, its officers, employees, agents, representatives, and consultants harmless from all claims, liabilities, and costs related to all aspects of this Solicitation. Under no circumstances shall the District be liable for any real estate brokerage commissions, finder's fees or other forms of compensation related in any way to activities undertaken by any person as a result of this Solicitation.

5.9 **Other Limiting Conditions**

- 5.9.1 If at any time after the District selects an Offeror, executes an LDDA or GLDA with the Offeror and the Offeror decides not to proceed, then the Offeror must notify the District in writing and provide reasons for its decision. The selected Offeror wishing to withdraw may be subject to the loss of part or all of the deposit posted at the time of award and may be responsible for certain costs previously waived by the District. If the District is unable to deliver the Property or its contribution to any joint venture, all deposits and any interest earned will be returned to Offeror and the District shall be released from any and all further liability.
- 5.9.2 This Project is expected to “stand alone”; thus, the Offeror is prohibited from cross collateralizing and cross defaulting the project with any other assets. Moreover, the Offeror is prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the net cash flows or ownership of the Project in part, or in its entirety, without prior District approval. Any additional debt shall require prior written District approval. This limitation shall apply until final completion of the Project.
- 5.9.3 The Offeror shall disclose all development management fees, general contracting fees, construction management fees, property management fees, and other fees that are paid to the Offeror or affiliated parties during the life of this Project.
- 5.9.4 The District has the right to begin negotiations with the next preferred Offeror in the event that an LDDA or GLDA cannot be executed within the allotted period of negotiations with a prior selected Offeror. The District may terminate, in its sole and absolute discretion, negotiations with any Offeror if such Offeror introduces



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comments or changes to an LDDA or GLDA that are inconsistent with its previously submitted offer materials.

- 5.9.5 In the course of best and final negotiations between the parties, the District reserves the right, in its sole discretion, to make and memorialize modifications to any offer in the form of a Letter of Intent between the District and the Offeror.
- 5.9.6 The District is subject to various laws, rules, policies and agreements that impose legal and ethical constraints upon current and former District employees and consultants with regard to post-employment restrictions vis a vis such employee's or consultant's involvement in District-led projects. In particular, restrictions include:
- 5.9.6.1.1 All Offerors, its members, agents, or employees, are prohibited from: (i) making offers of employment, (ii) conducting any negotiations for employment, (iii) employing or, (iv) entering into contracts of any sort, with current employees, consultants, or contractors to the District, who are personally and substantially involved in any aspect of this Project whatsoever.
- 5.9.6.1.2 Offerors must disclose in their initial Offers, the names of any member, employee, contracted agent, or consultant who within three (3) years prior to the publication of this Solicitation, were District employees, consultants, or contractors to the District. On a going forward basis, Offerors will be required to provide the District with regular and periodic notices of any and all new hires of employees, contracted agents, or consultants within five (5) days of any such hire.
- 5.9.6.1.3 This Section 5.9.6 shall apply to all Offerors during the conduct of this competition, and will subsequently apply to a selected Offeror until such time as final completion of development of the Project.
- 5.9.6.1.4 Required disclosures and notices notwithstanding, failure to comply with any obligation described in this Section 5.9.6 may result, in the District's sole and absolute discretion, in the Offeror's disqualification from consideration under this Solicitation, the rescission of the Offeror's award, and/or termination of any agreement between the Offeror and the District.



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6. EXHIBITS (A – I)

- A. Utility Easement**
- B. Narrative Description of Easements**
- C. Parking Garage and Access Easement**
- D. Transit Easement**
- E. Underground WMATA Easement**
- F. OAG Form Letter of Credit**
- G. Site Plan Phase 1**
- H. DDOT Proposed Street Concept**
- I. Site View/Master Plan**